

W444

DATE: March 8, 2001

GENERAL INFORMATION:

EXISTING LAND USE: Restaurant and offices.

SURROUNDING LAND USE AND ZONING: Multiple-family residential, zoned R-8, to the south; parking lot (zoned R-8) and multiple-family residential (zone O-1) to the north; offices to the west (R-8) and to the east (O-1).

HISTORY: The Noble-Dawes House was built circa 1885 for photographer Henry E. Noble. The second owner of the duplex (and resident from 1891-1895) was Charles G. Dawes, later Vice President of the U. S. (1925-29) and recipient of the Nobel Peace Prize in 1925.

The house was designated as a Lincoln Landmark in 1985 and granted a special permit (SP1165) that same year, which authorized uses consistent with the O-1 office district. The next year an amendment to SP1165 increased the amount of floor area which could be devoted to retail uses from 20% to 50%, and "Billy's Restaurant" was established on the main floor. The site plan which accompanied SP1165A identified five parking stalls south of the building and five stalls east of the landmark, on land identified at that time as leased.

ANALYSIS:

1. The applicant now owns Lots 5 and 6. In their present configuration, the Noble-Dawes House occupies the western portion of the property, while the eastern portion is paved as parking and a driving aisle. The pavement continues onto the next property to the east, which also contains a former apartment building, converted to office use.
2. The parking stalls on the parcel to the east are currently accessible only from the driving aisle on Lot 5. The owners of the adjacent properties are in conflict over parking and access issues.
3. The applicant proposes to install an antique wrought iron fence at the east edge of his property, identical to fencing used elsewhere on his site. The fence would separate the adjacent properties. Reviewing the proposal from the perspective of the designated landmark, the Historic Preservation Commission found (February 15, 2001), that the proposed fence, within a turf strip, would be consistent with the character of the landmark and hence recommended approval of the special permit amendment.

The Building and Safety Dept. notes that a building permit was issued in Dec. 1999 (No. B9904056) for an 11-stall parking lot on the adjacent property (W. 35' of Lot 3 and all of Lot 4). That would provide diagonal

parking and would require an additional one-way driveway off H Street. (Site plan enclosed.) That lot has not been constructed and by current regulations the permit expired after 6 months.

4. Lincoln Municipal Code Section 27.63.400 lists six considerations for landmark special permits, which to be granted to support preservation and reuse of historic structures:

- (1) The significance of the historic structure or site and the degree of variation sought from the permitted uses of the district;*
- (2) The extent to which economic factors necessitate the change in use;*
- (3) The extent of proposed exterior change to the structure or site;*
- (4) The impact on the surrounding area;*
- (5) The compatibility of the proposed use to the structure or site and the surrounding area; and*
- (6) The manner in which the public will be benefitted by such proposed use.*

5. The first issues, significance and degree of variation, were essentially answered in the prior designation of the house as a landmark, for its association with Charles G. Dawes and for its Queen Anne architecture, and in the approval of SP1165 in 1985 and SP1165A in 1986.

Since the proposal increases the area covered by the special permit but does not change permitted uses, the "degree of variation sought" does not appear to apply to this review. The only "variation" entailed in the present application is to incorporate an additional portion of O-1 property into the parking lot of a special permitted use.

6. The degree to which economic factors necessitate the requested change in use is subjective. The applicant's letters accompanying the application argue that his use of his property is impeded by the present configuration of the parking lot.
7. No exterior change to the landmark property is expected under the proposal, but the adjacent parking lot would be divided at the property line into two lots and a fence would be constructed between them.

8. Key issues in the review of landmark special permits by Planning Commission are the interrelated items 4, 5, and 6 in LMC27.63.400--the impact on the surrounding area, the compatibility of the proposed use with the structure and the area, and the public benefit of the proposed use.

The proposal would impact the property to the east by forcing reconfiguration of the pavement on that property to make it accessible for parking. In turn, implementing the approved building permit for that parking lot would create an additional driveway off H Street. The proposal would also reduce the number of stalls presently available on the combined properties and the amount of green space on the east property.

The only public benefit potentially offered by approval of the proposal would be if separation of the parking lots helped resolve the dispute between the neighbors. Robert Frost in "Mending Wall" quotes a taciturn neighbor's wisdom that "*Good fences make good neighbors,*" but for his part the poet observes:

*Before I built a wall I'd ask to know
What I was walling in or walling out,
And to whom I was like to give offense.
Something there is that doesn't love a wall.*

Obviously an amicable joint operating agreement for the combined parking lot would offer greater public benefit than the separated lots, as the present configuration offers more parking stalls, more grass, and less pavement. However, absent such an agreement, forcing the retention of the present arrangement requires the applicant to accept use of his property to access the parking stalls on the other property.

Lincoln Police Dept. staff have indicated to Planning staff strong concerns regarding this proposal, because the on-going dispute has generated service calls in the past. Planning staff has not yet received a written recommendation from Police Dept. on the proposal.

9. A memorandum of 3/6/01 from Rodger Harris of Building and Safety Dept. notes that the proposal states some of the 23 stalls within the proposed special permit property are rented to off-site users, and questions how many of the stalls are available to the Noble-Dawes House uses. Elsewhere in his proposal the applicant notes that 10 stalls are so rented, presumably leaving 13 for the landmark property. SP1165A of 1986 dedicated 10 stalls to the Noble-Dawes House.

Mr. Harris also notes that the site plan does not show an accessible parking stall.

10. A memorandum received 3-6-01 from Bob Fielder regarding Fire Prevention and Life Safety Codes notes the result of the review as "Approved."
11. A memorandum of 3/5/01 from Charles Baker of Public Works notes that plans for the adjacent parking lot should be addressed in the application and without further information "Public Works can not approve this application as it stands alone." The approved site plan for the adjacent parking lot seems to address most of Mr. Baker's questions.

CONCLUSION: The applicant's request to fence his property is reasonable if viewed solely from the perspective of the landmark Noble-Dawes House, but LMC 27.63.400 also requires the City Council to consider (and the Planning Commission to offer advice upon) the impact of the proposal on the surrounding area, and the public benefit of granting the request. The impact of separating the lots, necessitating additional driveways and pavement while accommodating fewer parking stalls, seems to be adverse. However, those impacts come from implementation of an approved (and expired) building permit by a neighbor. While a joint operating agreement would be preferable to implementation of the applicant's proposal and reconstruction of the adjacent parking lot, the City cannot require neighbors to "just get along" and cooperate in the use of their property. Barring a joint operating agreement, there appears to be a public benefit of allowing the proposal and permit to be implemented as a step towards resolving the dispute.

STAFF RECOMMENDATION: Conditional approval.

CONDITIONS:

Site Specific:

1. This approval increases the area of the Special Permit to include all of Lots 5 and 6, Block 150, Original Plat.

2. The site plan be revised to show:
 - (A) a handicapped accessible parking stall and
 - (B) a raised, curbed planting strip (turf or other low plantings) at least three feet wide for installation and protection of the fence.

General:

3. The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:
 - 4.1 All privately-owned improvements shall be permanently maintained by the owner.
 - 4.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.3 The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Edward F. Zimmer, Ph.D.
Historic Preservation Planner

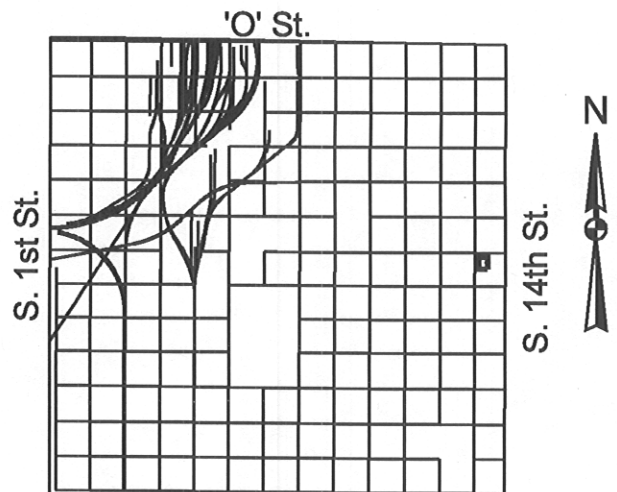
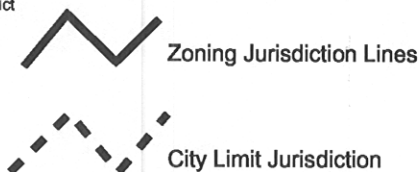


Special Permit #1165B S. 13th & 'H' St.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 26 T10N R6E



'A' St.
Sheet 1 of 2
Date:

Lincoln City - Lancaster County Planning Dept.



Special Permit #1165B
S. 13th & 'H' St.



Sheet 2 of 2

Date: _____

Photograph Date: 1997

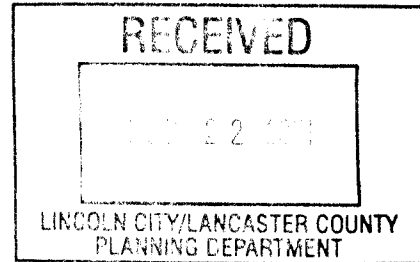
Lincoln City - Lancaster County Planning Dept.

2942 Stratford Avenue
Lincoln, Nebraska
68502

February 22, 2001

Ms. Kathleen A. Sellman, Director
Lincoln-Lancaster County Planning Department
555 South 10th Street
Suite 213
Lincoln, Nebraska

68508



Re: Amendment to Special Permit #1165A

Dear Director Sellman:

Please accept the attached materials and the filing fee as the necessary provisions to place my proposal to amend Special Permit #1165A on the agenda of the City-County Planning Commission on March 20, 2001.

I stopped by yesterday, and your kind professionals were most helpful in providing the necessary guidance to assist me with the compilation of materials.

Mr. Ed Zimmer, a Senior Planner, with the Planning Department, and the Historic Preservation Commission members acted, on my proposal, as their minutes will verify, on February 15, 2001, with a favorable vote of 5-0 to advance the same.

I am hopeful the planning department concurs with my proposal. I know there has been some degree of contact from tenants of a neighboring building, concerned about sufficient parking space. However, I have a written instrument from the building owners in which they state: **"We have made other arrangements for our tenant parking , and will not require your portion of the lot in the future."** If indeed planning is concerned about ample parking for that multi-story structure, I would suggest they visit with the owners of that. Some of their clients do rent from me, but I am certain there have been no letters of concern, from them to planning or the City Council.

The attachments are identified as follows:

- 1) **An 8 ½" x 11" site plan which includes a copy of "the plan" filed in 1986. This amendment merely extends the Special Permit to the property line and provides for an installation of a wrought iron fence.**
- 2) **An elevation of the proposed fence. I have purchased some in Omaha identical to the existing fence.**
- 3) **The original landscape plan is included, and I have committed to Historic Preservation to add vegetation for screening purposes when the fence is installed.**
- 4) **A certificate of ownership.**

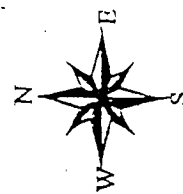
Thank you for your consideration of this material to permit the amendment of Special Permit #1165 A.

Respectfully,

A handwritten signature in black ink, appearing to read "Ray Lineweber". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ray Lineweber

attachments



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
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Legend

"A" = 8' - 6" stall width

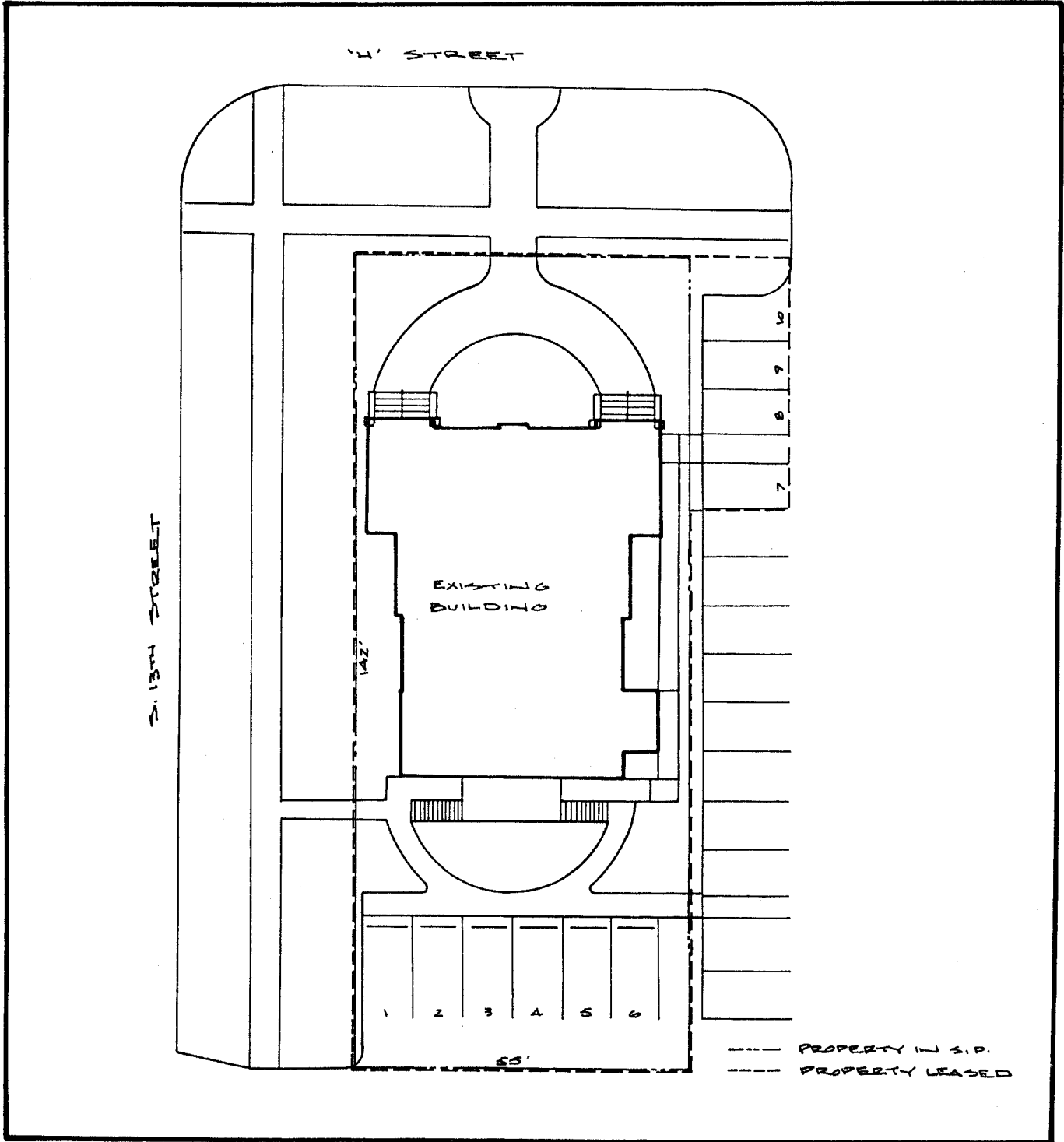
"B" = 17' - 6" stall depth

"C" = 24' - 0" aisle width

SPECIAL PERMIT #1165A

RESTAURANT IN HISTORIC LANDMARK

CONTAINING .12 ACRES, MORE OR LESS.



ZONING:
R-8 RESIDENTIAL DISTRICT

SCALE: 1"=25'



13th STREET

H STREET

EXG DRIVE

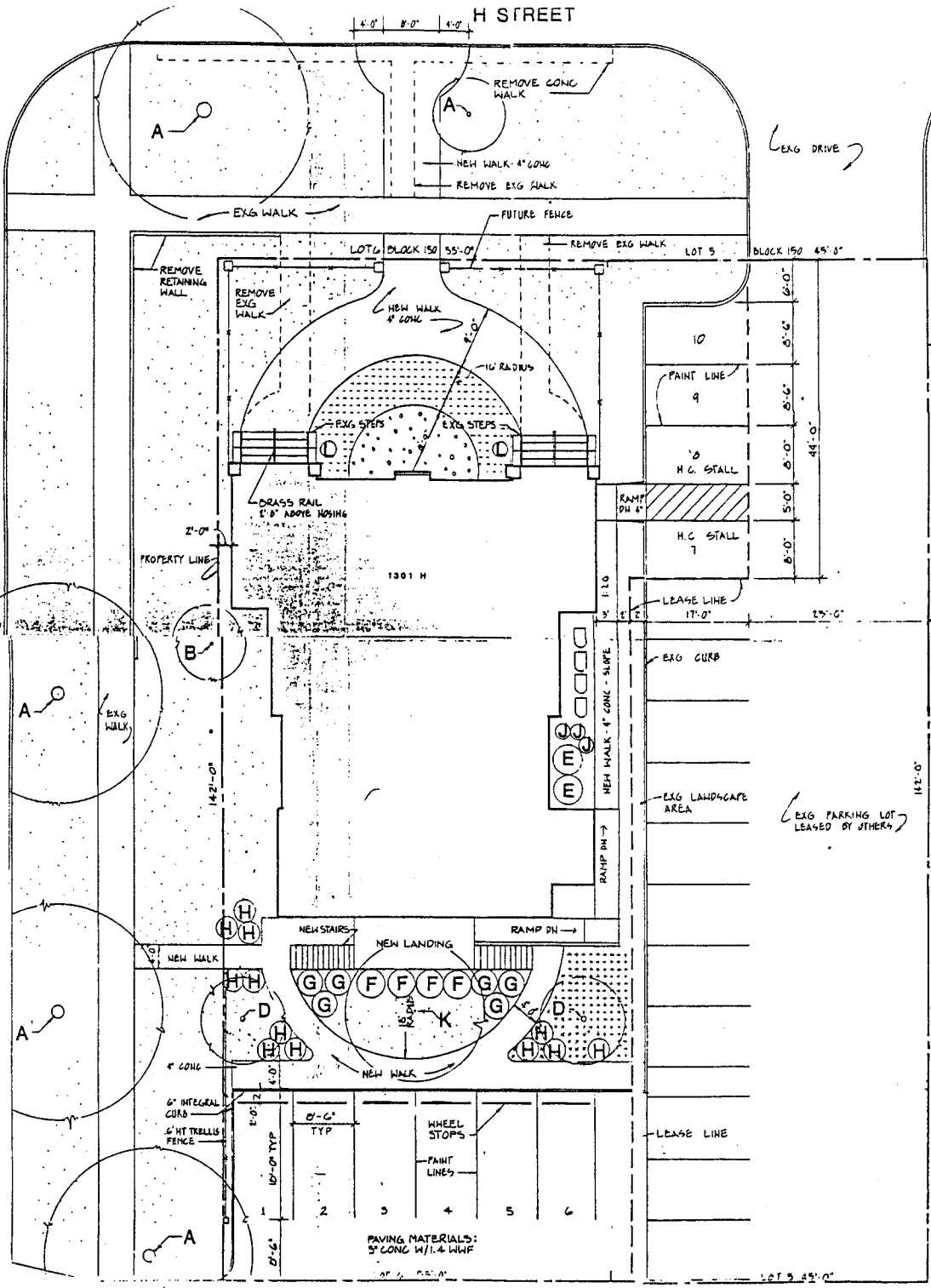
PROPERTY LINE

APPROVED:
CITY TRAFFIC ENGINEER'S OFFICE
Lincoln, Nebraska
Date 8/6/1986
By [Signature]

THE PLANNING DIRECTOR APPROVES THIS
PARKING LOT LAYOUT FOR 31.116
[Signature]
PLANNING DIRECTOR 8/10/86

Approved 1986

PARKING PLAN &
LANDSCAPE PLAN
SCALE: 1/8" = 1'-0"





Ray F Hill

03/06/01 04:40 PM

To: Edward Zimmer/Notes@Notes
cc:
Subject: Special Permit 1165B, 1301 "H" Street.

----- Forwarded by Ray F Hill/Notes on 03/06/01 04:45 PM -----



Rodger P Harris

03/06/01 03:08 PM

To: Ray F Hill/Notes@Notes
cc: Chuck A Zimmerman/Notes@Notes
Subject: Special Permit 1165B, 1301 "H" Street.

It appears to me that the purpose of this amendment is to add property to the original described property under SP 1165A and to add a wrought iron fence along the east property line. The included site plan shows 23 parking spaces, identified as 8'-6" in width and 17'-6" in depth.


This department has reviewed the information submitted and has comments and/or questions to offer as follows:

1. The submitted commentary indicates that some clients (of the multistory adjacent building) rent parking spaces from Mr. Lineweber, presumably on this subject site, which are some of the 23 parking spaces shown on the proposed special permit site plan. How many of these spaces are rented and how many spaces are available for the "Noble-Dawes House" uses?
2. The site plan does not show accessible parking space.
3. A building permit (No. B9904056) for an 11 stall parking lot on adjacent land to the east, (W. 35' of Lot 3 and all of Lot 4, in this Block 150) was issued on December 15, 1999, along with a new curb cut from "H" Street. This parking lot has not been constructed.

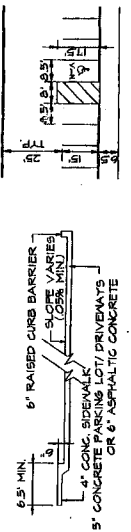
Approved (3 expired) Plan for Adjacent Lot

BRIAN D. CARSTENS & ASSOCIATES
 LAND PLANNING
 ARCHITECTURAL & COMMERCIAL DESIGN
 2045 PINE LAKE ROAD
 SUITE 101
 LINCOLN, NE 68516
 PHONE (402) 441-4204
 FAX (402) 441-4207

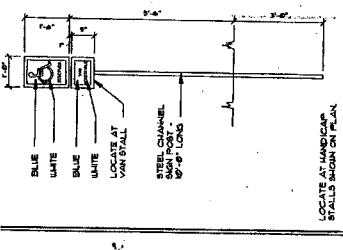
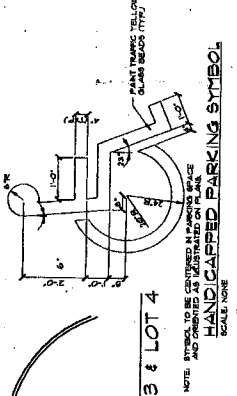
1327 TH STREET
 PARKING LOT AND CURB CUT PERMIT
 1327 TH STREET
 LINCOLN, NE

SITE PLAN

 SCALE: 1" = 20'

1 OF 1



TYPICAL PARKING LOT DETAILS
 NO SCALE

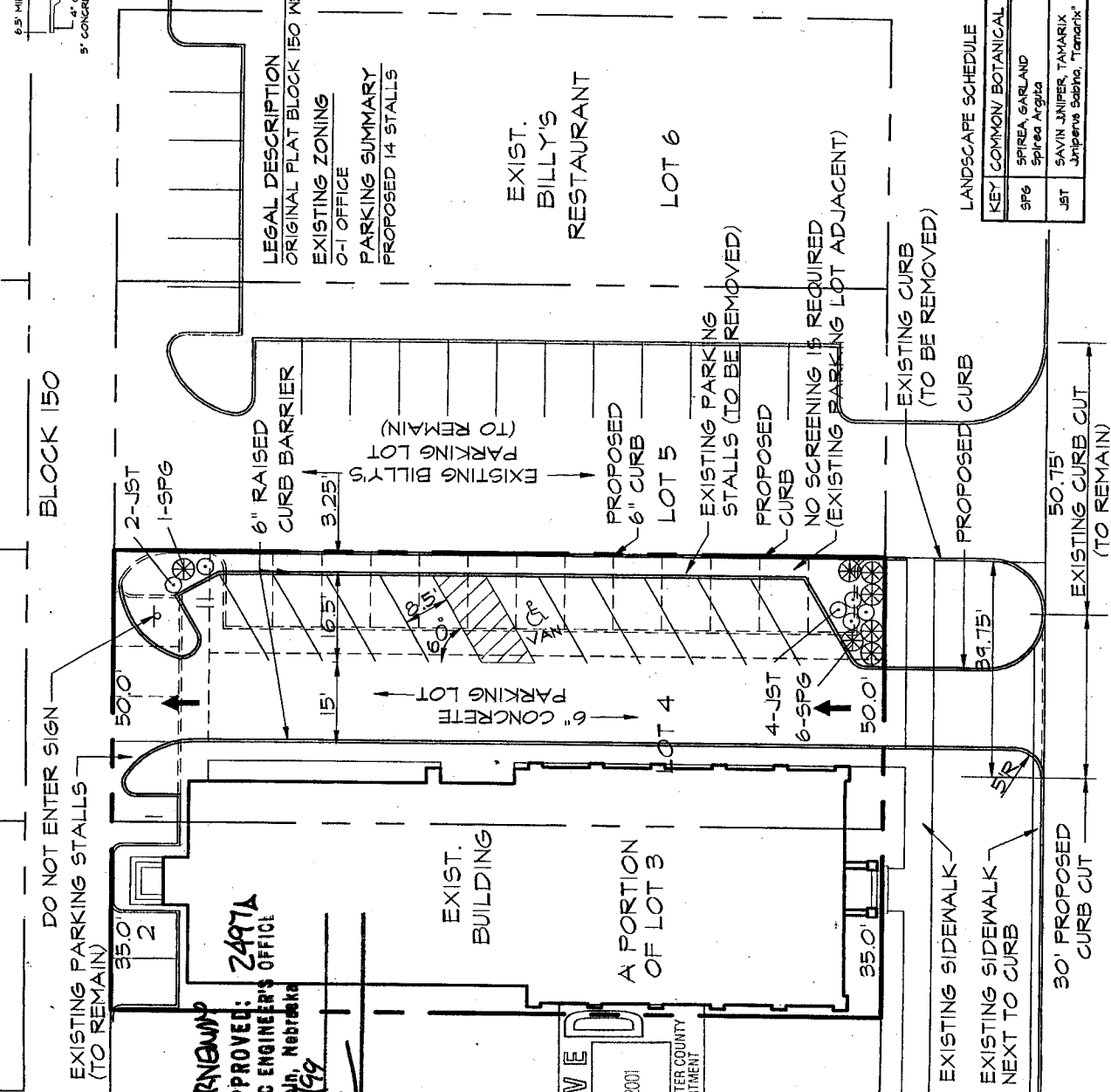


HANDICAPPED PARKING SIGN
 SCALE: 1" = 20'

REVISED
 DEC - 2 1999
 BUILDING & SAFETY

LANDSCAPE SCHEDULE

KEY	COMMON BOTANICAL NAME	SIZE	METHOD	SPREAD	HEIGHT	QUAN
SP6	SPIREA GARLAND Spiraea Arguta	18" x 24"	B & B	3'	5'	6
JST	JAVIN JUNIPER TAMARIX Juniperus Sabina, Tamarix	18" x 24"	B & B	4'	4'	6



LEGAL DESCRIPTION
 ORIGINAL PLAT BLOCK 150 W35 LOT 3 & LOT 4
EXISTING ZONING
 O-1 OFFICE
PARKING SUMMARY
 PROPOSED 14 STALLS

City of Lincoln, Nebraska

IMPORTANT

All revisions to plans must include Building Permit # and Job Address.

Return this report with two sets of corrected plans. The corrections noted below are required to be made to the plans prior to issuance of a permit. Please indicate under each item where the correction is made by plan sheet number or plan detail number.

A separate set of plans for review and final approval must be submitted by the licensed installing contractor/s if fire suppression systems, sprinklers, dry powder, fire alarm systems or underground tanks are installed.

Plan Review Comments

Permit # DRF01021

Address

Job Description: BILLY'S

Location: BILLY'S

Special Permit: Y 1165B

Preliminary Plat: N

Use Permit: N

CUP/PUD: N

Requested By: RAY HILL

Status of Review: Approved

Reviewer: FIRE PREVENTION/LIFE SAFETY CODE

BOB FIEDLER

Comments:

Current Codes in Use Relating to Construction Development in the City of Lincoln:

- 1997 Uniform Building Code and Local Amendments
- 1994 Nebraska Accessibility Guidelines (Patterned after and similar to ADA guidelines)
- 1989 Fair Housing Act As Amended Effective March 12, 1989
- 1979 Zoning Ordinance of the City of Lincoln as Amended including 1994 Parking Lot Lighting Standards
- 1992 Lincoln Plumbing Code (The Lincoln Plumbing Code contains basically the 1990 National Standard Plumbing Code and local community Amendments.)
- 1999 National Electrical Code and Local Amendments
- 1997 Uniform Mechanical Code and Local Amendments
- 1994 Lincoln Gas Code
- 1994 NFPA 101 Life Safety Code
- 1997 Uniform Fire Code and Local Amendments
- Applicable NFPA National Fire Code Standards

RECEIVED

M/S - S. J.

LINCOLN CITY/LANCASTER COUNTY
PLANNING DEPARTMENT

Memorandum

To: Ray Hill, Planning Department

From: Charles W. Baker, Public Works and Utilities *BWB*

Subject: Special Permit # 1165 B, Parking Lot 1301 'H' Street

Date: March 5, 2001

cc: Roger Figard, Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed parking lot changes at 1301 'H' Street and has the following comments:

The parking stall dimensions and aisle width meet design standards.

The east radius of the drive approach overlaps the property line to the east. An agreement for this radius extension must be granted by the adjoining property owner.

The existing parking stalls to the east of this proposed parking lot and fence installation should be addressed.

Will this property be applying for curb cuts for access to their property?

Is the parking lot surfacing going to be removed?

How will storm water run off be handled? Is a curb going to be installed?

What landscaping requirements are needed that might affect the width of the parking lot?

Public Works can not approve this application as it stands alone.

